

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

STACEY SAVY MEAS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 2:24-cv-01295 CKD

ORDER

Plaintiff seeks judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) finding that her disability ended on October 21, 2021 under section 223(f) of the Social Security Act (“Act”). The parties have consented to Magistrate Judge jurisdiction to conduct all proceedings in the case, including the entry of final judgment. ECF No. 6. The parties have filed cross-motions for summary judgment. ECF Nos. 11 & 15. For the reasons discussed below, the court will deny plaintiff’s motion for summary judgment and grant the Commissioner’s cross-motion for summary judgment.

BACKGROUND

Plaintiff, born in 1972, was found disabled beginning February 21, 2018 due to cervical cancer. Administrative Transcript (“AT”) 17, 33, 47. On August 29, 2022, pursuant to a continuing disability review (“CDR”), the Commissioner found plaintiff was no longer disabled

1 as of October 21, 2021.¹ AT 17. Plaintiff requested reconsideration of the decision, and the
2 determination was upheld upon reconsideration after a hearing by a State agency Disability
3 Hearing Officer. AT 17. Plaintiff next requested a hearing before an Administrative Law Judge
4 (ALJ). AT 17. After holding a hearing via videoconference on May 23, 2023 (AT 44-66), the
5 ALJ concluded that plaintiff's disability ended on October 21, 2021. AT 35. Plaintiff challenges
6 the ALJ's July 27, 2023 decision in the instant case.

7 In it, the ALJ made the following findings (citations to 20 C.F.R. omitted):

- 8 1. The most recent favorable medical decision finding that the
9 claimant was disabled is the determination dated May 24, 2018. This
is known as the 'comparison point decision' or CPD.
- 10 2. At the time of the CPD, the claimant had the following medically
11 determinable impairment: invasive squamous cell carcinoma of the
cervix. This impairment was found to meet section 13.23 of the
12 Listing of Impairments at 20 CFR Part 404, Subpart P, Appendix 1.
- 13 3. Through the date of this decision, the claimant has not engaged in
substantial gainful activity.
- 14 4. The medical evidence establishes that, since October 21, 2021,
15 the claimant has had the following medically determinable severe
impairments: degenerative disc disease, depression, residuals of
radiation treatment. These are the claimant's current impairments.
- 16 5. Since October 21, 2021, the claimant has not had an impairment
17 or combination of impairments that meets or medically equals one of
the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1.
- 18 6. Medical improvement occurred on October 21, 2021.
- 19 7. The medical improvement is related to the ability to work because,
20 by October 21, 2021, the claimant no longer had an impairment or
21 combination of impairments that met or medically equaled the same
listing(s) that was met at the time of the CPD.
- 22 8. Since October 21, 2021, the claimant has continued to have a
23 severe impairment or combination of impairments.
- 24 9. Based on the impairments present since October 21, 2021, the
claimant has had the residual functional capacity to perform light
work, except she can lift, carry, push or pull up to 20 pounds
25 occasionally, 10 pounds frequently; sit, stand or walk up to six hours

26 ¹ "The Commissioner of the SSA must conduct periodic continuing disability reviews of persons
27 who receive disability benefits." Lambert v. Saul, 980 F.3d 1266, 1268 (9th Cir. 2020), citing 42
U.S.C. § 421(i); 20 C.F.R. § 404.1590.

1 each in an eight-hour workday, and never climb ladders, ropes or
2 scaffolds. She can occasionally climb ramps and stairs and
3 occasionally balance and crawl. She can never work at unprotected
4 heights. She is limited to understanding, remembering and carrying
5 out simple, routine and repetitive tasks and using judgment limited
6 to simple work-related decisions.

7 10. Since October 21, 2021, the claimant has been unable to perform
8 past relevant work.²

9 11. On October 21, 2021, the claimant was a younger individual age
10 18-49.

11 12. The claimant has at least a high-school education.

12 13. Since October 21, 2021, transferability of job skills is not
14 material to the determination of disability[.]

15 16. Since October 21, 2021, considering the claimant's age,
17 education, work experience, and residual functional capacity, the
18 claimant has been able to perform a significant number of jobs in the
19 national economy.³

20 17. The claimant's disability ended on October 21, 2021, and the
21 claimant has not become disabled again since that date.

22 AT 18-35.

23 ISSUES PRESENTED

24 Plaintiff contends that the ALJ committed the following errors: (1) the ALJ did not
25 reasonably find that medical improvement occurred; (2) the ALJ improperly discounted plaintiff's
26 subjective symptom testimony; (3) the ALJ's residual functional capacity determination was not
27 supported by substantial evidence; and (4) the ALJ erred in finding at step five that plaintiff could
28 perform available jobs in the national economy.

29 LEGAL STANDARDS

30 The court reviews the Commissioner's decision to determine whether (1) it is based on
31 proper legal standards pursuant to 42 U.S.C. § 405(g), and (2) substantial evidence in the record
32 as a whole supports it. Tackett v. Apfel, 180 F.3d 1094, 1097 (9th Cir. 1999). "The ALJ is

33 ² At the hearing, plaintiff testified that she worked as a dealer at a casino from 2006 to 2018. AT
34 61-62.

35 ³ Relying on vocational expert (VE) testimony, the ALJ found plaintiff could perform
36 representative occupations such as small products assembler, office helper, and routing clerk. AT
37 34.

1 responsible for determining credibility, resolving conflicts in medical testimony, and resolving
 2 ambiguities.” Edlund v. Massanari, 253 F.3d 1152, 1156 (9th Cir. 2001) (citations omitted).
 3 “The court will uphold the ALJ’s conclusion when the evidence is susceptible to more than one
 4 rational interpretation.” Tommasetti v. Astrue, 533 F.3d 1035, 1038 (9th Cir. 2008).

5 The record as a whole must be considered, Howard v. Heckler, 782 F.2d 1484, 1487 (9th
 6 Cir. 1986), and both the evidence that supports and the evidence that detracts from the ALJ’s
 7 conclusion weighed. See Jones v. Heckler, 760 F.2d 993, 995 (9th Cir. 1985). The court may not
 8 affirm the ALJ’s decision simply by isolating a specific quantum of supporting evidence. Id.; see also Hammock v. Bowen, 879 F.2d 498, 501 (9th Cir. 1989). If substantial evidence supports the
 10 administrative findings, or if there is conflicting evidence supporting a finding of either disability
 11 or nondisability, the finding of the ALJ is conclusive, see Sprague v. Bowen, 812 F.2d 1226,
 12 1229-30 (9th Cir. 1987), and may be set aside only if an improper legal standard was applied in
 13 weighing the evidence. See Burkhart v. Bowen, 856 F.2d 1335, 1338 (9th Cir. 1988).

14 ANALYSIS

15 A. Medical Improvement

16 Plaintiff first claims that the ALJ did not reasonably find that medical improvement
 17 occurred on October 21, 2021. Defendant counters that, as it is undisputed that plaintiff no longer
 18 had cervical cancer as of October 21, 2021, the ALJ’s finding of medical improvement was
 19 reasonable.

20 The ALJ found that, as of October 21, 2021, plaintiff “no longer had an impairment or
 21 combination of impairments that met or medically equaled the same listing(s) that was met at the
 22 time of the CPD.” (AT 22.) Under the cited regulation, 20 CFR 404.1594(b)(1), medical
 23 improvement is “any decrease in the medical severity of your impairment(s) which was present at
 24 the time of the most recent favorable medical decision that [the claimant was disabled].” For
 25 plaintiff, the most recent favorable decision was issued May 24, 2018 and found she was disabled
 26 because her cervical cancer met Listing 13.23(B)(1).⁴ See AT 17, 19.

27
 28 ⁴ This Listing concerns cancers of the female reproductive system, including cancer of the uterine
 cervix.

1 In the recent decision at issue, the ALJ noted that plaintiff “was successfully treated for
 2 cancer with no evidence of the disease currently.” AT 22, citing AT 1360 (follow-up treatment
 3 record citing “no evidence of disease” in March 2022 CT scans and “no evidence of recurrence”
 4 in March and November 2021); see also AT 24 (noting that plaintiff’s “cancer has been
 5 successfully treated and is no longer detectable”).

6 In her motion for summary judgment, plaintiff does not dispute that her cancer has been
 7 successfully treated, but argues that the ALJ did not address pelvic pain causing “remaining
 8 weakness which affects her gait” and neurocognitive impairments, i.e., symptoms that occurred
 9 after the removal of her cancer. (ECF No. 11 at 9.) However, the ALJ did not err in concluding
 10 that plaintiff no longer met Listing 13.23(B)(1), constituting “medical improvement.” Plaintiff’s
 11 first claim lacks merit.

12 B. Subjective Symptom Testimony

13 Plaintiff claims the ALJ erred in discounting her subjective symptom testimony about her
 14 post-cancer medical issues. In a two-paragraph argument, plaintiff asserts that “[i]t is difficult to
 15 ascertain which statements support [the ALJ’s] devaluation. As such, the ALJ has not provided
 16 citations to medical evidence which contradicts Ms. Meas’ statements.” (ECF No. 11 at 18.)

17 The ALJ determines whether a disability applicant is credible, and the court defers to the
 18 ALJ’s discretion if the ALJ used the proper process and provided proper reasons. See, e.g.,
 19 Saelee v. Chater, 94 F.3d 520, 522 (9th Cir. 1995). If credibility is critical, the ALJ must make an
 20 explicit credibility finding. Albalos v. Sullivan, 907 F.2d 871, 873-74 (9th Cir. 1990). “Without
 21 affirmative evidence showing that the claimant is malingering, the Commissioner’s reasons for
 22 rejecting the claimant’s testimony must be clear and convincing.” Morgan v. Commissioner of
 23 Social Sec. Admin., 169 F.3d 595, 599 (9th Cir. 1999); see also Lambert v. Saul, 980 F.3d 1266,
 24 1277–78 (9th Cir. 2020).

25 In evaluating whether subjective complaints are credible, the ALJ should first consider
 26 objective medical evidence and then consider other factors. Bunnell v. Sullivan, 947 F.2d 341,
 27 344 (9th Cir. 1991) (en banc). If there is objective medical evidence of an impairment, the ALJ
 28 then may consider the nature of the symptoms alleged, including aggravating factors, medication,

1 treatment and functional restrictions. See id. at 345-47. The ALJ also may consider: (1) the
 2 applicant's reputation for truthfulness, prior inconsistent statements or other inconsistent
 3 testimony, (2) unexplained or inadequately explained failure to seek treatment or to follow a
 4 prescribed course of treatment, and (3) the applicant's daily activities. Smolen v. Chater, 80 F.3d
 5 1273, 1284 (9th Cir. 1996); see generally SSR 96-7P, 61 FR 34483-01; SSR 95-5P, 60 FR 55406-
 6 01; SSR 88-13. When discounting subjective testimony, an ALJ must provide “specific, clear,
 7 and convincing *reasons* for doing so.” Wade v. Saul, 850 F. App’x 568, 569 (9th Cir. 2021)
 8 (emphasis in original), citing Lambert, 980 F.3d at 1277–78. This standard does “not require
 9 ALJs to perform a line-by-line exegesis of the claimant’s testimony[.]” Lambert, 980 F.3d at
 10 1277. However, an ALJ’s detailed overview of the claimant’s medical history—coupled with a
 11 nonspecific boilerplate conclusion that her testimony is “not entirely consistent” with her medical
 12 treatment—is not enough to satisfy the minimal requirements for assessing credibility. Id. at
 13 1277–78.

14 In his decision, the ALJ included a lengthy summary of plaintiff’s August 2022 disability
 15 hearing testimony, including statements that she felt “unable to work because she cannot focus
 16 and because of depression”; has memory problems and difficulty following directions;
 17 experiences numbness in her legs; and has pain all over her body, though medication helps with
 18 the pain. AT 23, citing AT 113.

19 The ALJ next summarized plaintiff’s testimony at the May 2023 hearing before him as
 20 follows:

21 [T]he claimant testified that she cannot work because she cannot
 22 concentrate or remember, is depressed and cannot follow
 23 instructions. Cervical cancer is resolved but her body is in pain, and
 24 she has problems walking and standing. The pain is inside her bones.
 25 She walks with a walker because she cannot stand for a long time.
 26 Her mother gave it to her. She takes pain medication three times a
 27 day that does help. She denied side effects. Her daughter reminds
 28 her to take her medications. She does not handle her own money.

29 AT 24; see AT 46-61 (hearing testimony).

30 The ALJ concluded that the intensity, persistence, and limiting effects of plaintiff’s
 31 symptoms “are not entirely consistent with the objective medical evidence and other evidence for

1 the reasons explained in this decision.” AT 24. After summarizing the medical record for four
 2 pages (which alone would not have been legally sufficient for an unfavorable credibility finding
 3 under Lambert), the ALJ explained:

4 [W]hile the claimant alleges disability due to . . . chemotherapy and
 5 radiation related side effects consisting of memory loss and whole
 6 body joint pain, . . . her complaints of memory loss and body pain
 7 residuals are not entirely consistent with the objective evidence, as it
 8 has been approximately five years since her cancer treatments ended
 9 and her treating doctor indicated that much of her pain was out of the
 10 radiation field which would not be related to her prior treatment.⁵
 11 There is no medical evidence to substantiate her bone pain and her
 12 walker was provided by her mother and not medically prescribed. X-
 13 rays of the lumbar spine in October 2021 were normal. [Neuropathy]
 14 was not corroborated by diagnostic testing such as EMG/nerve
 15 conduction studies. Musculoskeletal testing has been noted to be
 16 normal. While she reports poor memory and difficulty
 17 concentrating, cognition has been noted to be normal on numerous
 18 occasions.

19 AT 29; see AT 24-29 (summary of medical evidence). This sufficiently explains what specific
 20 evidence undercut plaintiff’s symptom allegations. Because the ALJ used the proper process and
 21 provided proper reasons, the court defers to his credibility finding.

22 **C. Residual Functional Capacity**

23 Plaintiff claims the ALJ’s residual functional capacity (RFC) determination was not
 24 supported by substantial evidence. Specifically, plaintiff argues that her ongoing pelvic pain, use
 25 of a cane, significant memory problems, and moderate limitations in maintaining pace should
 26 have resulted in a more restrictive RFC.

27 As noted above, the RFC stated that plaintiff could perform light work with multiple
 28 exertional limitations and was “limited to understanding, remembering and carrying out simple,
 29 routine and repetitive tasks and using judgment limited to simple work-related decisions.” AT
 30 22.

31 Residual functional capacity is what a person “can still do despite [the individual’s]
 32 limitations.” 20 C.F.R. §§ 404.1545(a), 416.945(a) (2003); see also Valencia v. Heckler, 751 F.2d
 33

34 ⁵ Citing AT 1363 (2022 medical note from oncologist stating “I do not have a great explanation
 35 for her pain. Much of her pain is out of the radiation field which would not be related to her prior
 36 treatment.”).

1 1082, 1085 (9th Cir. 1985). RFC is assessed based on the relevant evidence in the case record,
2 including the medical history, medical source statements, and subjective descriptions and
3 observations made by the claimant, family, neighbors, friends, or other persons. 20 C.F.R. §§
4 404.1545(a)(1), 404.1545(a)(3). When assessing RFC, the ALJ must consider the claimant's
5 "ability to meet the physical, mental, sensory, and other requirements of work[.]" 20 C.F.R. §§
6 404.1545(a)(4).

7 Plaintiff asserts that ongoing pelvic pain makes her unable to perform light work, citing an
8 April 2021 medical note by oncologist Dr. Neelesh Bangalore, who wrote: "Since last visit,
9 patient had been having significant deep pelvic pain. Therefore, I was concerned about patient
10 having possibility of disease recurrence. Therefore, PET/CT imaging was done." AT 933. The
11 ALJ noted this record in his summary of the medical evidence. AT 25. The ALJ also considered
12 Dr. Bangalore's January 2022 note that plaintiff's cancer "has remained under control," she was
13 "clinically stable," and a PET/CT scan from November 2021 showed no indication of cervical
14 cancer recurrence. AT 26, citing AT 927. Insofar as Dr. Bangalore's notes (and plaintiff's
15 argument on this issue) are based on plaintiff's subjective statements, these were not found fully
16 credible, as discussed above.

17 Plaintiff also asserts that she has significant memory problems and migraines, citing Dr.
18 Bangalore's January and August 2022 opinions stating she should be "on permanent disability"
19 due to these and other symptoms. See AT 915. Plaintiff does not address the fact that the ALJ
20 reviewed these opinions and found them "not persuasive" because they were conclusory and
21 unsupported by the longitudinal treatment record. AT 30. Plaintiff cannot simply cherry-pick
22 statements from medical opinions in the record without addressing how the ALJ weighed those
23 opinions in determining the RFC. Plaintiff also cites assorted bits of evidence purportedly
24 relating to her memory. ECF No. 11 at 14.

25 Plaintiff asserts she needs a cane, based on her own statements and a 2023 medical note
26 that she fell down and "has a walker but rarely uses it." AT 1400. After reviewing the relevant
27 evidence, including medical notes and plaintiff's testimony, the ALJ found that plaintiff did not
28 need an assistive device. AT 29-30.

1 Essentially, plaintiff's arguments about the RFC merely attempt to reweigh the evidence
2 in her favor. Plaintiff does not show why the RFC, as determined by the ALJ based on his
3 weighing of the evidence, does not adequately reflect what she can do despite her mental and
4 physical limitations. She is not entitled to relief on this claim.

5 D. Step Five

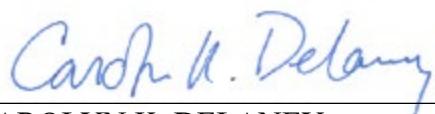
6 Lastly, plaintiff argues that the ALJ erred in finding at step five that she could perform
7 available jobs in the national economy. This argument is based on plaintiff's previous arguments
8 that the RFC was flawed, such that she could not stand long enough to perform light work or
9 concentrate long enough to perform the jobs identified based on her RFC. As the court has found
10 these arguments to lack merit, they are no basis for concluding that the ALJ erred at step five.

11 CONCLUSION

12 IT IS HEREBY ORDERED that:

13 1. Plaintiff's motion for summary judgment (ECF No. 11) is DENIED;
14 2. The Commissioner's cross-motion for summary judgment (ECF No. 15) is
15 GRANTED; and
16 3. The Clerk of Court shall enter judgment for the Commissioner.

17 Dated: August 20, 2025



18 CAROLYN K. DELANEY
19 UNITED STATES MAGISTRATE JUDGE

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